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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ADRIAN DORIN CORCHES,
aka Torsten Lund,

16 Defendant.
17

No. CR 2:23-153-DSF

GOVERNMENT'S SENTENCING POSITION

Hearing Date: August 28, 2023
Hearing Time: 8:30 a.m.
Location: Courtroom of the
Hon. Dale S. Fischer

18 Plaintiff United States of America, by and through its counsel
19 of record, the United States Attorney for the Central District of
20 California and Assistant United States Attorney Jeremy K. Beecher,
21 hereby files its sentencing position regarding defendant ADRIAN DORIN
22 CORCHES.
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1 The government's sentencing position is based upon the attached
2 memorandum of points and authorities, the files and records in this
3 case, the Presentence Investigation Report and Sentencing
4 Recommendation, and any other evidence or argument that the Court may
5 permit.

6
7 Dated: August 7, 2023

Respectfully submitted,

8 E. MARTIN ESTRADA
United States Attorney

9 MACK E. JENKINS
10 Assistant United States Attorney
Chief, Criminal Division

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12 _____
 /s/
JEREMY K. BEECHER
13 Assistant United States Attorney

14 Attorneys for Plaintiff
UNITED STATES OF AMERICA
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MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

Defendant traveled to the United States to commit fraud. Shortly after defendant illegally entered the country via jet ski, law enforcement arrested him at a U.S. Bank ATM in Los Angeles after he fraudulently withdrew \$4,970 in funds from Electronic Benefit Transfer ("EBT") accounts belonging to low-income Californians. For this, the government respectfully recommends that the Court sentence defendant to: 12 months' imprisonment; a five-year term of supervised release; \$4,970 in restitution; a fine of \$438.53; and the mandatory \$200 special assessment.

II. PROBATION'S RECOMMENDATION

On May 22, 2023, defendant pled guilty to one count of bank fraud in violation of 18 U.S.C. § 1344(2) (Count 4) and one count of unlawful use of unauthorized access devices in violation of 18 U.S.C. § 1029(a)(2) (Count 6), pursuant to a plea agreement filed with the Court on May 2, 2023. (Dkt. 20 ("Plea Agreement").) In the Plea Agreement, defendant agreed that a high-end Guidelines sentence of no less than twelve months is appropriate. (Id. ¶ 17.)

The United States Probation & Pretrial Services Office ("USPO") issued a Presentence Investigation Report ("PSR") and accompanying Sentencing Recommendation on July 24, 2023. (Dkt. 26, PSR; Dkt. 25, Sentencing Recommendation.) The PSR matched the parties' agreement on an offense level of 10, and calculated a Criminal History Category of I, resulting in an advisory guideline range of 6 to 12 months. (PSR at 3.) The USPO recommended a high-end guidelines sentence of 12 months, consistent with the parties' agreement. (Sentencing Recommendation at 2; Plea Agreement ¶ 17.) The USPO further

1 recommended a three-year term of supervised release, a \$200 mandatory
2 special assessment and no fine.

3 The government does not object to the PSR's findings or to
4 USPO's sentencing recommendation, except that the government believes
5 the Court should impose a five-year period of supervised release and
6 order defendant to pay a fine of \$438.53, both of which defendant has
7 agreed are appropriate here. (Plea Agreement ¶ 17.) For the reasons
8 set forth below, the government requests that the Court sentence
9 defendant to: a high-end Guidelines term of twelve months'
10 imprisonment; a five-year term of supervised release; \$4,970 in
11 restitution; a fine of \$438.53; and the mandatory \$200 special
12 assessment.

13 **III. STATEMENT OF FACTS**

14 On March 1, 2023, law enforcement arrested defendant at a U.S.
15 Bank ATM in Los Angeles after he made fraudulent withdrawals of cash
16 from victims' EBT accounts. Defendant was able to do so because he,
17 himself or working in concert with others whose identities are
18 unknown to the government, had obtained victims' EBT account
19 information and PINs by placing "skimming" devices and cameras on
20 ATMs or other point-of-sale devices to surreptitiously capture or
21 record victims' account information and PINs. Defendant, himself or
22 working in concert with others unknown to the government, then
23 "cloned" the account information captured by the skimming devices
24 onto debit, credit or gift cards by altering the account information
25 on those cards' magnetic stripes. Defendant then utilized these
26 cloned cards, together with the surreptitiously captured PINs, to
27 withdraw funds from victims' EBT accounts.

1 On March 1, 2023, defendant withdrew a total of \$4,970 in funds
2 from victims' EBT accounts, consisting of: \$1,130 from victim M.G.'s
3 EBT account, which had a balance of \$1,148.83; \$1,130 from victim
4 G.M.'s EBT account, which had a balance of \$1,185.97; \$1,590 from
5 victim E.S.'s EBT account, which had a balance of \$1,597.27; and
6 \$1,120 from victim A.Z.'s EBT account, which had a balance of
7 \$1,125.80. In total defendant obtained \$4,970 in funds and intended
8 to obtain \$5,057.87 in funds from at least four victims. (The
9 difference between the funds withdrawn by defendant and the intended
10 loss represents the balance remaining on the accounts that defendant
11 did not withdraw.)

12 When arrested, Defendant possessed four debit, credit or gift
13 cards that had been cloned with victims' account information. All
14 four cards had stickers on them bearing each victim's EBT account
15 balance and PIN. Defendant used this information to make the four
16 withdrawals.

17 Upon arrest, defendant falsely told arresting officers his name
18 was Torsten Lund. Defendant also possessed a false Danish passport
19 and identification card in the name of Torsten Lund. Defendant was
20 carrying \$5,608.53 in cash at the time of his arrest.

21 After his arrest, defendant submitted to an interview during
22 which he acknowledged he knew he was withdrawing funds from EBT
23 accounts that did not belong to him.

24 In the Plea Agreement, the government and defendant have agreed
25 that the following represents an appropriate sentence: a custodial
26 sentence no lower than the high-end of the Guidelines range
27 calculated by the Court, provided that the resulting sentence is at
28 least twelve months imprisonment; a five-year period of supervised

1 release with conditions to be fixed by the Court; \$4,970 restitution;
2 a fine of \$438.53; and a \$200 special assessment.

3 (Plea Agreement ¶¶ 13, 17; PSR ¶¶ 14-27.)

4 **IV. ARGUMENT**

5 The Court must impose a sentence that is sufficient, but not
6 greater than necessary, to achieve the purposes set forth in 18
7 U.S.C. § 3553(a). The Court shall consider "the nature and
8 circumstances of the offense and the history and characteristics of
9 the defendant." 18 U.S.C. § 3553(a)(1). In addition, the Court
10 should fashion a sentence that reflects the seriousness of the
11 offense, promotes respect for the rule of law, provides just
12 punishment for the offense, affords adequate deterrence to criminal
13 conduct, and protects the public from future crimes of the defendant,
14 among other considerations. 18 U.S.C. § 3553(a)(2). The parties'
15 agreed-upon sentence will serve these goals.

16 **A. Nature and Circumstances of the Offense**

17 The Court must consider the nature, circumstances, and
18 seriousness of the offense. 18 U.S.C. §§ 3553(a)(1), (a)(2)(A).
19 Here, the parties' agreed-upon high-end sentence reflects the
20 seriousness of defendant's crime. Defendant traveled to the United
21 States, illegally entering the country via a jet ski from Canada, for
22 the apparent purpose of earning money by stealing public benefits.
23 Defendant targeted the most indigent and financially vulnerable in
24 our society - recipients of food stamps and related benefits for low-
25 income Californians - for his own enrichment. By doing so, he
26 deprived individual victims of funds they expected to receive and
27 depended on to meet their basic needs.

1 The parties' agreed-upon, high-end recommendation reflects
2 defendant's history and characteristics. Defendant is a Romanian
3 national with an extensive theft-related record across Europe. His
4 European criminal history includes sentences as follows: four years'
5 imprisonment for theft in Romania in 2002; an unknown term for theft
6 in Norway in 2005; 19 months' imprisonment for aggravated theft in
7 Romania in 2009; and 27 months' imprisonment for theft in Finland in
8 2014. (See Declaration of Jeremy K. Beecher, Exhibit A.) This
9 record shows that defendant's conduct here is no aberration. Indeed,
10 defendant would fall within Criminal History Category III if his
11 European convictions were domestic. A high-end guidelines sentence
12 will account for defendant's international history of theft-related
13 offenses, which is otherwise not reflected under the Guidelines.

14 **B. Need for Deterrence and to Promote Respect for the Law**

15 A high-end, twelve-month sentence is also warranted to promote
16 deterrence against individuals traveling to the United States to
17 engage in fraud. Defendant traveled to this country from Romania,
18 entering without authorization from Canada, for the apparent purpose
19 of participating in a sophisticated and organized scheme to steal
20 public funds intended for indigent Californians. A high-end
21 custodial sentence is necessary to impart the seriousness of the
22 offense to defendant, to others similarly situated to him considering
23 a similar course of conduct, and to the general public.

24 **C. Need to Avoid Unwarranted Disparities**

25 Section 3553(a)(6) requires the Court to minimize sentencing
26 disparities among similarly situated defendants. One way of doing so
27 is to correctly calculate the Guidelines range and then sentence
28 defendants within that range. See United States v. Treadwell, 593

1 F.3d 990, 1011 (9th Cir. 2010) ("Because the Guidelines range was
2 correctly calculated, the district court was entitled to rely on the
3 Guidelines range in determining that there was no 'unwarranted
4 disparity'"); Gall v. United States, 552 U.S. 38, 54 (2007)
5 ("[A]voidance of unwarranted disparities was clearly considered by
6 the Sentencing Commission when setting the Guidelines ranges."). The
7 parties' agreed-upon sentence falls within the Guidelines and thus
8 avoids an unwarranted disparity with similarly situated defendants.

9 **D. Defendant Should Serve Five Years of Supervised Release**

10 In addition to a high-end custodial sentence, the Court should
11 impose the parties' agreed-upon five-year term of supervised release.
12 (Plea Agreement ¶ 17.)

13 A five-year term of supervised release would provide an "added
14 measure of deterrence and protection" that is warranted under the
15 facts of this case. See USSG § 5D1.1, comment. (n.5). Defendant's
16 history of theft across multiple decades and continents cries out for
17 the additional deterrence and protection a high-end term of
18 supervised release will provide. See USSG § 5D1.1, comment. (n.3(A),
19 (B)) (noting factors to be considered in determining whether to
20 impose a term of supervised release and stating that "[t]he court
21 should give particular consideration to the defendant's criminal
22 history (which is one aspect of the 'history and characteristics of
23 the defendant'"). Additionally, given defendant's immigration
24 status, he is likely to be deported at the conclusion of his
25 sentence. There would be no greater deprivation of liberty than
26 necessary, and no undue expenditure of Probation Office resources,
27 because there would be no reporting requirement for defendant unless
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1 he actually returned, presumably illegally, to the United States once
2 again.

3 A five-year term of supervised release is thus appropriate to
4 effectively protect the public from any of defendant's future crimes.

5 **E. Defendant Should Pay \$4,970 in Restitution and**
6 **a Fine of \$438.53**

7 In the plea agreement, defendant agreed to make full restitution
8 in the amount of \$4,970. (Plea Agreement ¶ 17.) The USPO agrees
9 that this restitution figure is appropriate and should be paid to the
10 California Department of Social Services, as the individual victims
11 have since been made whole by that agency. (Sentencing
12 Recommendation at 1.)

13 The government additionally requests that the Court impose the
14 parties' agreed-upon fine of \$438.53. (Plea Agreement ¶ 17.) This
15 figure represents the balance of funds seized from defendant at the
16 time of his arrest, after subtracting restitution and the \$200
17 mandatory special assessment. Because the funds were seized from
18 defendant upon his arrest and are currently in the custody of the
19 United States Secret Service, he is indisputably able to pay the
20 fine. While this fine amount is low in the abstract, its imposition
21 will ensure that all of defendant's ill-gotten gains are forfeited
22 here and that he does not realize a single cent of profit from his
23 scheme to steal from the poorest Californians.

24 **V. CONCLUSION**

25 For the foregoing reasons, the government respectfully
26 recommends that the Court sentence defendant to a high-end Guidelines
27 term of imprisonment of twelve months; a five-year term of supervised
28 release; \$4,970 restitution; a fine of \$438.53; and the mandatory

1 \$200 special assessment. This sentence is "sufficient, but not
2 greater than necessary, to comply with the purposes enumerated in 18
3 U.S.C. § 3553(a)(2)." 18 U.S.C. § 3553(a).

